

Notice of Allowability

Application No.

10/533,788

Examiner

Rosalynd Keys

Applicant(s)

KOBAYASHI ET AL.

Art Unit

1621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment and remarks filed March 5, 2007 and papers filed March 28, 2007.
2. ☒ The allowed claim(s) is/are 3, 4, 6, 7, and 10-24 (now claims 1-19).
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☒ Other Detailed Action.

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DETAILED ACTION

Status of Claims

1. Claims 3, 4, 6, 7, and 10-24 are pending.

Claims 3, 4, 6, 7, and 10-24 are allowed.

Claims 1, 2, 5, 8 and 9 are cancelled.

Priority

2. Applicant has now complied with the requirements of 37 CFR 1.63(c).

Response to Amendment

Specification

3. The abstract of the disclosure is now in compliance with 37 CFR 1.72(b).

Claim Rejections - 35 USC § 102

4. The rejection of claims 1, 2, 5, 9 and 10 under 35 U.S.C. 102(b) as being anticipated by Wall et al. (US 3,371,064) is withdrawn, since claims 1, 2, 5 and 9 have been cancelled and claim 10 now depends from claim 3.

5. The rejection of claims 1, 2, 5, and 9 under 35 U.S.C. 102(b) as being anticipated by McClelland et al. (J. Org. Chem., Vol. 45, No. 1, January 1980, pp. 187-189) is withdrawn, since claims 1, 2, 5 and 9 have been cancelled.

6. The rejection of claims 1, 2, 4, 8-13, and 18 under 35 U.S.C. 102(e) as being anticipated by DiPietro et al. (US 2004/0214102 A1) is withdrawn, since claims 1, 2, 8, and 9 have been cancelled and the Applicants have perfected their claim to priority under 35 U.S.C. 119(a)-(d) by filing a certified English translation of their Japanese foreign priority documents.

7. The rejection of claims 1, 3 and 7 under 35 U.S.C. 103(a) as being unpatentable over DiPietro et al. (US 2004/0214102 A1) is withdrawn, since claim 1 has been cancelled and the

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Applicants have perfected claim to priority under 35 U.S.C. 119(a)-(d) by filing a certified English translation of their Japanese foreign priority documents.

Terminal Disclaimer

8. The terminal disclaimer filed on March 5, 2007 disclaiming the terminal portion of any patent granted on this application, which would extend beyond the expiration date of U.S. Patent No. 6,858,760 B2 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Double Patenting

9. The rejection of claims 1, 2, 4, 8 and 9 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 9 of U.S. Patent No. 6,858,760 B2 is withdrawn, since claims 1, 2, 8 and 9 have been cancelled and the Applicants filed a terminal disclaimer.

Response to Arguments

Specification

10. The objection to the specification is withdrawn.

Allowable Subject Matter

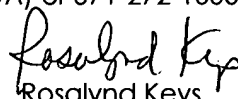
11. Claims 3, 4, 6, 7, and 10-24 (claims 1-19) are allowed.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rosalyn Keys whose telephone number is 571-272-0639. The examiner can normally be reached on M, W & F 5:30-7:30 am & 1-5 pm; T & Th 5:30 am-4 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Rosalyn Keys
Primary Examiner
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March 30, 2007